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7 Attorney for Plaintiff
8 LANH HO

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 EUREKA DIVISION

12 LANH HO,

13 Plaintiff,

14 v.

15 MARTIN J. O'MALLEY,
16 Commissioner of Social Security,

17 Defendant.

Case No. 1:23-cv-03727-RMI

STIPULATION FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES AND
EXPENSES PURSUANT TO THE
EQUAL ACCESS TO JUSTICE ACT;
[~~PROPOSED~~] ORDER

18 IT IS HEREBY STIPULATED by and between the parties through their
19 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded
20 attorney fees and expenses in the amount of \$7,984.45, under the Equal Access to
21 Justice Act (EAJA), 28 U.S.C. § 2412(d), and no costs under 28 U.S.C. § 1920. This
22 amount represents compensation for all legal services rendered on behalf of Plaintiff by
23 counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 2412(d),
24 1920.

25 After the Court issues an order for EAJA fees to Plaintiff, the government will
26 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to
27 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability
28

1 to honor the assignment will depend on whether the fees are subject to any offset
2 allowed under the United States Department of the Treasury's Offset Program. After
3 the order for EAJA fees is entered, the government will determine whether they are
4 subject to any offset.

5 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
6 determines that Plaintiff does not owe a federal debt, then the government shall cause
7 the payment of fees, expenses and costs to be made directly to Plaintiff's counsel,
8 Francesco Benavides, pursuant to the assignment executed by Plaintiff.

9 Payment of costs may be made either by electronic fund transfer (ETF) or by
10 check.

11 This stipulation constitutes a compromise settlement of Plaintiff's request for
12 EAJA attorney fees and does not constitute an admission of liability on the part of
13 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
14 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or
15 Francesco Benavides, including the Law Offices of Francesco Benavides, may have
16 relating to EAJA attorney fees in connection with this action.

17 This award is without prejudice to the rights of Francesco Benavides to seek
18 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings
19 clause provisions of the EAJA.

20
21 Respectfully submitted,

22
23 Dated: October 4, 2024

24 Law Offices of Francesco Benavides

25 By: /s/ Francesco Benavides
26 FRANCESCO P. BENAVIDES
27 Attorney for Plaintiff
28

Dated: October 4, 2024

ISMAIL J. RAMSEY
United States Attorney
MATHEW W. PILE
Associate General Counsel
Social Security Administration

By: /s/ Katherine Watson*
KATHERINE WATSON
Special Assistant U.S. Attorney
Attorneys for Defendant
(*Francesco Benavides attests that Emma
O'Rourke-Friel, on behalf of Katherine Watson,
concurred with the filing of this document and
permission to use her electronic signature was
obtained via email on October 4, 2024).

~~PROPOSED~~ ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses, **IT IS ORDERED** that fees and expenses in the amount of \$7,984.45 as authorized by 28 U.S.C. § 2412, and no costs under 28 U.S.C. § 1920, be awarded subject to the terms of the Stipulation.

DATE: October 24, 2024



HON. ROBERT M. ILLMAN
UNITED STATES MAGISTRATE JUDGE